

**Certificate of Public Review  
Application  
Kit**

**State of Delaware**

Delaware Health Resources Board  
Jesse S. Cooper Building  
417 Federal Street  
Dover, Delaware 19901

Adopted: April 13, 1995  
Effective: May 13, 1995  
Updated: July 15, 1996  
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## GENERAL INSTRUCTIONS

This Application Kit is intended to provide potential applicants with a clear understanding of the nature, scope and depth of the preparation expected in conjunction with the filing of an application. Further, it is intended to gather and compile the information necessary for a timely, thorough and fair evaluation of the project proposed. Not all questions will be pertinent to all proposals. Such questions can be responded to by indicating "Not Applicable." Conversely, the applicant is encouraged to submit any information that will contribute to a clearer understanding of the proposal, even if not specifically requested in the application forms. To assist the applicant in preparing an application, this Application Kit (with the exception of Section B) is available on diskette in Word 97 format.

It is felt that the application forms are largely self-explanatory. Potential applicants having any questions concerning the forms should contact the staff at the Bureau of Health Planning and Resources Management at (302) 741-2960.

Applicants unfamiliar with Delaware's Certificate of Public Review (CPR) program may want to review the statutory provisions that appear immediately following these General Instructions.

There are three distinct application forms as discussed below:

- Attachment I:* This is the Notice of Intent Form that precedes the filing of the actual application by at least 30 days. The information to be included is quite rudimentary. Its purpose is to allow for anticipation of various proposals so that preparatory measures can be undertaken as appropriate.
- Attachment II:* This is the Application itself. It cannot be filed less than 30 days from filing the Notice of Intent (Attachment I) unless the Delaware Health Resources Board agrees in writing to waive this requirement.
- Attachment III:* This form will be used very infrequently. It is used only in conjunction with a project required to remedy an emergency situation that threatens the safety of patients or the ability of the health facility to remain in operation.

All forms are to be submitted to the Bureau of Health Planning and Resources Management at the following address:

Jesse S. Cooper Building  
417 Federal Street  
Dover, Delaware 19901

Submissions are to include 20 copies, one of which shall have an original signature.

## **TITLE 16**

### *Health and Safety*

#### **PART VIII**

##### *Hospitals and Other Health Facilities*

### **CHAPTER 93. HEALTH PLANNING AND RESOURCES MANAGEMENT ›REPEAL EFFECTIVE JUNE 30, 2009, PURSUANT TO §/N 9311 OF THIS TITLE. |**

#### **§ 9301. Purpose ›Repeal effective June 30, 2009, pursuant to § 9311 of this title. |.**

It is the purpose of this chapter to assure that there is continuing public scrutiny of certain health care developments which could negatively affect the quality of health care or threaten the ability of health care facilities to provide services to the medically indigent. This public scrutiny is to be focused on balancing concerns for cost, access and quality. (61 Del. Laws, c. 393, § 1; 66 Del. Laws, c. 90, § 1; 69 Del. Laws, c. 251, § 1; 70 Del. Laws, c. 446, § 1; 72 Del. Laws, c. 64, § 2.)

#### **§ 9302. Definitions ›Repeal effective June 30, 2009, pursuant to § 9311 of this title. |.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context indicates a different meaning:

(1) "Board" shall mean the Delaware Health Resources Board established pursuant to § 9303 of this title.

(2) "Bureau" shall mean the Bureau of Health Planning and Resources Management within the Department of Health and Social Services.

(3) "Certificate of Public Review" shall mean the written approval of an application to undertake an activity subject to review as described in § 9304 of this title.

(4) "Health care facility" shall include hospital, nursing home, freestanding birthing center, freestanding surgical center and freestanding emergency center, whether or not licensed or required to be licensed by the State, whether operated for profit or nonprofit and

whether privately owned or operated or owned or operated by a unit of State or local government. The term also includes continual care communities and any other non-traditional, long-term care facilities identified by the Department of Health and Social Services or the Delaware Health Care Commission. The term does not include Christian Science sanatoriums operated or listed and certified by the First Church of Christ Scientist, Boston, Massachusetts. The term shall not include any physician's office, whether an individual or group practice, any independent clinical laboratory or any radiology laboratory. The term shall also not include the office of any other licensed health care provider, including, but not limited to, physical therapist, dentist, physician assistant, podiatrist, chiropractor, an independently practicing nurse or nurse practitioner, optometrist, pharmacist or psychologist. The term also shall not include any dispensary or first aid station located within a business or industrial establishment maintained solely for the use of employees, provided that the facility does not contain inpatient beds, nor shall it apply to any first aid station or dispensary or infirmary offering non-acute services exclusively for use by students and employees of a school or university or by inmates and employees of a prison, provided that services delivered therein are not the substantial equivalent of hospital services in the same area or community. Further:

a. "Freestanding birthing center" shall mean any facility licensed as such pursuant to Chapter 1 of this title and more particularly in the State Board of Health Regulations.

b. "Freestanding emergency center" shall mean any facility licensed as such pursuant to Chapter 1 of this title and more particularly § 52 of the State Board of Health Regulations.

c. "Freestanding surgical center" shall mean any facility licensed as such pursuant to Chapter 1 of this title and more particularly in the State Board of Health Regulations.

d. "Hospital" shall mean any nonfederal facility licensed as such pursuant to Chapter 10 of this title and more particularly § 50 of the State Board of Health Regulations.

e. "Nursing home" shall mean any nonfederal facility licensed as such pursuant to Chapter 11 of this title and more particularly § 57 (Skilled care) and § 58 (Intermediate care) of the State Board of Health Regulations.

(5) "Health services" shall mean clinically related (i.e., diagnostic, curative or rehabilitative) services provided in or through health care facilities.

(6) "Major medical equipment" shall mean a single unit of medical equipment or a single system of components with related functions which is used for the diagnosis or treatment of patients and which:

a. Entails a capital expenditure as set forth in this chapter which exceeds \$5,800,000 or some greater amount which has been designated by the Board following an annual adjustment for inflation using an annual inflation index determined by the United States Department of Labor, Bureau of Labor Statistics;

b. Represents medical technology which is not yet available in Delaware; or

c. Represents medical technology which has been designated by the Board as being subject to review.

The Board may exempt from review a capital expenditure used to acquire major medical equipment which represents medical technology which is not yet available in Delaware. A notice of intent filed pursuant to § 9305 of this title along with any other information deemed necessary by the Board shall provide the basis for exempting such a capital expenditure from review.

(7) "Person" shall mean an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies and insurance companies), a state or political subdivision or instrumentality (including a municipal corporation) of a state. (61 Del. Laws, c. 393, § 1; 65 Del. Laws, c. 69, § 2; 66 Del. Laws, c. 90, § 1; 68 Del. Laws, c. 29, §§ 1, 2; 69 Del. Laws, c. 251, § 1; 70 Del. Laws, c. 446, § 2; 72 Del. Laws, c. 64, §§ 1, 3-5; 75 Del. Laws, c. 192, §§ 1, 2.)

**§ 9303. Delaware Health Resources Board ›Repeal effective June 30, 2009, pursuant to § 9311 of this title. |.**

(a) There is hereby established a Delaware Health Resources Board to foster the cost-effective and efficient use of health care resources and the availability of and access to high quality and appropriate health care services.

(b) The Board shall consist of a Chair, a Vice Chair and 19 other members, all of which shall be appointed by the Governor.

Appointments shall be for 3-year terms except that of the initial appointments, 7 shall be for 3-year terms, 7 shall be for 2-year terms and 7 shall be for 1-year terms. The membership shall be representative of all counties in the State. In addition to the Chair and the Vice Chair, the membership shall consist of 1 representative designated by the Delaware Health Care Commission; 1 representative designated by the Secretary of the Department of Health and Social Services; 1 representative of organized labor; 1 representative of the health insurance industry; 1 representative designated by the Delaware Healthcare Association; 1 representative designated by the Medical Society of Delaware; 1 representative designated by the Delaware Health Care Facilities Association; 1 representative of a provider group other than hospitals, nursing homes or physicians; 1 representative designated by the State Chamber of Commerce; 1 representative involved in purchasing health care coverage on behalf of State employees; 1 other representative involved in purchasing health care coverage for employers with more than 200 employees; and 10 representatives of the public-at-large and not involved in the delivery of health care, health care insurance or the purchasing of health care coverage for an employer with more than 200 employees. The Chair and Vice Chair shall be appointed from among the 10 representatives of the public-at-large. Any vacancy shall be filled by the Governor for the balance of the unexpired term. A quorum shall consist of at least 50 percent of the membership. Members of the Board shall serve without compensation, except that they may be reimbursed for reasonable and necessary expenses incident to their duties, to the extent that funds are available and the expenditures are in accordance with State laws.

(c) The Board is an independent public instrumentality. For administrative and budgetary purposes only, the Board shall be placed within the Department of Health and Social Services. Staff support for the Board shall be provided by the Bureau of Health Planning and Resources Management. The Bureau Director shall serve as Secretary to the Board and as its Chief Administrative Officer.

(d) The duties and responsibilities of the Board shall include, but not be limited to, the following:

(1) Develop a Health Resources Management Plan which shall assess the supply of health care resources, particularly facilities and medical technologies, and the need for such resources. A statement of principles to guide the allocation of resources and specific criteria and other guidance for use in reviewing Certificate of Public Review

applications shall be essential aspects of the plan. Prior to adoption of the plan or revision of the plan, the Board shall provide written notification of the proposed action and conduct a public hearing. Such notification shall be sent directly to all health care facilities in the State and to others who request direct notification. A notice shall also appear in a newspaper of general circulation which shall serve as written notification to the general public. The notification shall generally describe the plan or plan revisions under consideration and announce the time and place of the public hearing. The notification shall also provide a period of at least 21 days during which written comments may be submitted. The public hearing shall be held not less than 14 days after the notice appears in the newspaper. No fees shall be imposed for such hearings. An opportunity must be provided for any person to present testimony. Also, prior to adoption, the plan or revision of the plan shall be submitted to the Delaware Health Care Commission for review and comment and to the Secretary, Department of Health and Social Services. The plan or revision shall become effective upon the written approval of the Secretary;

(2) Review Certificate of Public Review applications filed pursuant to this chapter and make decisions on same. Decisions shall reflect the importance of assuring that health care developments do not negatively affect the quality of health care or threaten the ability of health care facilities to provide services to the medically indigent. Decisions can be conditional but the conditions must be related to the specific project in question;

(3) Gather and analyze data and information needed to carry out its responsibilities. Identify the kinds of data which are not available so that efforts can be made to assure that legitimate data needs can be met in the future;

(4) Address specific health care issues as requested by the Governor or the General Assembly;

(5) Adopt bylaws as necessary for conducting its affairs. Board members shall comply with the provisions of Chapter 58 of Title 29 (State Ethics Code) and the Board shall operate in accordance with Chapter 100 of Title 29 (Freedom of Information Act); and

(6) Coordinate activities with the Delaware Health Care Commission, the Department of Health and Social Services and other groups as appropriate. (66 Del. Laws, c. 90, § 1; 68 Del. Laws, c. 29, §§ 3, 4; 69 Del. Laws, c. 251, § 1; 72 Del. Laws, c. 64, §§ 1, 6, 7; 75 Del. Laws, c. 192, §§ 3, 4.)



**§ 9304. Activities subject to review ›Repeal effective June 30, 2009, pursuant to § 9311 of this title.].**

Any person must obtain a Certificate of Public Review prior to undertaking any of the following activities:

(1) The construction, development or other establishment of a health care facility or the acquisition of a nonprofit health care facility;

(2) Any expenditure by or on behalf of a health care facility, which, under generally accepted accounting principles consistently applied, is a capital expenditure that exceeds an inflation adjusted amount designated by the Board pursuant to § 9302(6)a. of this title. A capital expenditure for purposes of constructing, developing or otherwise establishing a medical office building shall not be subject to review under this chapter. When a person makes an acquisition by or on behalf of a health care facility under lease or comparable arrangement, or through donation which would have required review if the acquisition had been by purchase, such acquisition shall be deemed a capital expenditure subject to review. The Board may exempt from review capital expenditures, when determined to be necessary for maintaining the physical structure of a facility and not related to direct patient care. A notice of intent filed pursuant to § 9305 of this title, along with any other information deemed necessary by the Board, shall provide the basis for exempting such capital expenditures from review;

(3) A change in bed capacity of a health care facility which increases the total number of beds (or distributes beds among various categories, or relocates such beds from 1 physical facility or site to another) by more than 10 beds or more than 10 percent of total licensed bed capacity, whichever is less, over a 2-year period;

(4) The acquisition of major medical equipment, whether or not by a health care facility and whether or not the acquisition is through a capital expenditure, an operating expense or a donation. The replacement of major medical equipment with similar equipment shall not be subject to review under this chapter. In the case of major medical equipment acquired by an entity outside of Delaware, the use of that major medical equipment within Delaware, whether or not on a mobile basis, is subject to review under this chapter. Major medical equipment which is acquired for use in a dispensary or first aid station located within a business or industrial establishment maintained solely for the use of employees or in a first aid station, dispensary or infirmary offering services exclusively for use by students and employees of a school or university or by inmates and employees of a

prison is not subject to review. (61 Del. Laws, c. 393, § 1; 66 Del. Laws, c. 90, § 1; 68 Del. Laws, c. 29, §§ 5, 6; 69 Del. Laws, c. 251, § 1; 70 Del. Laws, c. 446, §§ 3-5; 72 Del. Laws, c. 64, §§ 1, 8-11; 75 Del. Laws, c. 192, § 5.)

**§ 9305. Procedures for review ›Repeal effective June 30, 2009, pursuant to § 9311 of this title.].**

Reviews under this chapter shall be conducted in accordance with the following procedures:

(1) Notices of intent. -- At least 30 days but not more than 180 days prior to submitting an application for review under this chapter, applicants shall submit to the Bureau a notice of intent in such form as may be determined by the Board to cover the scope and nature of the project. An application may be submitted less than 30 days from submitting the notice of intent only with the written approval of the Board. A notice of intent expires and is rendered invalid if no subsequent application for review is submitted to the Board within 180 days following the date on which the notice of intent is submitted.

(2) Applications for review. -- Application forms will be developed by the Board and may vary according to the nature of the application.

(3) Deadlines and time limitations. -- Upon receipt of an application under this chapter, the Bureau shall have a maximum of 15 days to notify the applicant as to whether the application is considered complete. If complete, written notification in accordance with subdivision (4) of this section will be provided. If incomplete, the applicant will be notified in writing of such determination and will be advised of what additional information is required to make the application complete. When the additional information is received, the Bureau again has a maximum of 15 days to determine whether the application is complete. The same steps shall be taken as with the initial submission each time that additional information is required.

Except as provided below, the review of an application shall take no longer than 90 days from the date of notification as covered under subdivision (4) of this section. If a public hearing is requested under subdivision (6) of this section, the maximum review period will be extended to 120 days from the date of notification. Within 30 days from the date of notification (60 days if a public hearing is requested), the Board may extend the maximum review period up to 180 days from the date of notification. Such extensions shall be invoked only as necessary to allow the development of appropriate review criteria or

other guidance when these are lacking or to facilitate the simultaneous review of similar applications. The maximum review period can also be extended as mutually agreed to in writing by the Board and the applicant.

In the case of a project required to remedy an emergency situation which threatens the safety of patients or the ability of the health facility to remain in operation, an abbreviated application shall be submitted in such format as the Board prescribes. As quickly as possible, but within 72 hours after receipt, the Board shall render a decision as to whether or not the project shall be treated as an emergency and whether or not the application shall be approved. The Chair or Vice Chair of the Board shall be authorized to render such decision and shall have discretion as to the decision making process.

(4) Agency review; notification. -- Within 5 working days of determining that an application under this chapter is complete, the Bureau shall provide written notification of the beginning of a review. Such notification shall be sent directly to all health care facilities in the State and to others who request direct notification. A notice shall also appear in a newspaper of general circulation which shall serve as written notification to the general public. The date of notification is the date on which such notice appears in the newspaper. The notification shall identify the applicant, indicate the nature of the application, specify the period during which a public hearing in the course of the review as covered in subdivision (6) of this section may be requested, and indicate the manner in which notice will be provided of the time and place of any hearing so requested.

(5) Findings. -- Upon completion of a review under this chapter, and within the time frames outlined in subdivision (3) of this section, the Bureau shall notify in writing the applicant and anyone else upon request as to the Board's decision, including the basis on which the decision was made. Decisions can be conditional, but the conditions must be related to the specific project in question.

(6) Public hearing in the course of review. -- Within 10 days after the date of notification as described in subdivision (4) of this section, a public hearing in the course of review may be requested in writing by any person. The Board shall provide for a public hearing if requested and shall provide notification of the time and place for such hearing in a newspaper of general circulation. The public hearing shall be held not less than 14 days after such notice appears in the newspaper. Fees shall not be imposed for such hearings. An opportunity must be provided for any person to present testimony.

(7) Administrative reconsideration -- Procedure for Board. -- Any person may, for a good cause shown, request in writing a public hearing for purposes of reconsideration of a Board decision rendered under subdivision (5) of this section. The Board may not impose fees for such a hearing. For purposes of this subdivision, a request for a public hearing shall be deemed by the Board to have shown good cause if it:

a. Presents newly discovered, significant, relevant information not previously available or considered by the Board; and

b. Demonstrates that there have been significant changes in factors or circumstances relied upon by the Board in reaching its decision; or

c. Demonstrates that the Board has materially failed to follow its adopted procedures in reaching its decision.

A request for such a hearing must be received within 10 days of the decision. The hearing shall commence within 45 days of the request.

Notice of such public hearing shall be sent, not less than 15 days prior to the date of the hearing, to the person requesting the hearing and to the applicant, and shall be sent to others upon request. Following completion of the hearing, the Board shall, within 45 days, issue its written decision which shall set forth the findings of fact and conclusion of law upon which its decision is based.

(8) Appeal -- Applicant. -- A decision of the Board following review of an application pursuant to subdivision (5) of this section, an administrative reconsideration pursuant to subdivision (7) of this section, or the denial of a request for extension of a Certificate of Public Review pursuant to § 9307 of this title, may be appealed within 30 days to the Superior Court. Such appeal shall be on the record.

(9) Access by public. -- The general public shall be provided access to all applications reviewed under this chapter and to all other written materials pertinent to any review of an application.

(10) Filing fees. -- Within 5 working days of determining that an application under this chapter is complete, the Bureau shall notify the applicant of any filing fee due.

Filing fees shall be determined from the following table:

Filing

## Capital Expenditures Fee

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Less than \$500,000 \$100

\$500,000 to \$999,999 \$750

\$1,000,000 to \$4,999,999 \$3,000

\$5,000,000 to \$9,999,999 \$7,500

\$10,000,000 and over \$10,000

Filing fees shall be due 30 days after the date of notification of the beginning of review as covered under subdivision (4) of this section. This due date may be extended up to 10 additional days at the discretion of the Bureau. Applications for which filing fees have not been paid within this time frame shall be considered to be withdrawn. All filing fees shall be deposited in the General Fund. (61 Del. Laws, c. 393, § 1; 66 Del. Laws, c. 90, § 1; 68 Del. Laws, c. 29, § 7; 69 Del. Laws, c. 251, § 1; 72 Del. Laws, c. 64, § 1; 75 Del. Laws, c. 192, §§ 7, 8.)

### **§ 9306. Review considerations ›Repeal effective June 30, 2009, pursuant to § 9311 of this title.].**

In conducting reviews under this chapter, the Board shall consider as appropriate at least the following:

(1) The relationship of the proposal to the Health Resources Management Plan adopted pursuant to § 9303 of this title. Prior to adoption of a Health Resources Management Plan by the Board, the State health plan last in use by the Health Resources Management Council shall comprise such plan;

(2) The need of the population for the proposed project;

(3) The availability of less costly and/or more effective alternatives to the proposal, including alternatives involving the use of resources located outside the State;

(4) The relationship of the proposal to the existing health care delivery system;

(5) The immediate and long-term viability of the proposal in terms of the applicant's access to financial, management and other necessary resources;

(6) The anticipated effect of the proposal on the costs of and charges for health care; and

(7) The anticipated effect of the proposal on the quality of health care. (61 Del. Laws, c. 393, § 1; 66 Del. Laws, c. 90, § 1; 69 Del. Laws, c. 251, § 1.)

**§ 9307. Period of effectiveness of Certificate of Public Review  
›Repeal effective June 30, 2009, pursuant to § 9311 of this title.].**

(a) A Certificate of Public Review shall be valid for 1 year from the date such approval was granted.

(b) At least 30 days prior to the expiration of the Certificate of Public Review, the applicant shall inform the Board in writing of the project's status. The Board shall determine if sufficient progress has been made for the Certificate of Public Review to continue in effect. If sufficient progress has not been made, the applicant may request in writing, to the Board, that a 6-month extension be granted. The Board shall either allow the certificate to expire or grant such extension. A decision by the Board to deny an extension may be appealed pursuant to § 9305(8) of this title. (61 Del. Laws, c. 393, § 1; 66 Del. Laws, c. 90, § 1; 69 Del. Laws, c. 251, § 1; 72 Del. Laws, c. 64, § 1.)

**§ 9308. Sanctions ›Repeal effective June 30, 2009, pursuant to § 9311 of this title.].**

(a) Any person undertaking an activity subject to review as described in § 9304 of this title, without first being issued a Certificate of Public Review for that activity, shall have its license or other authority to operate denied, revoked or restricted as deemed appropriate by the responsible licensing or authorizing agency of the State and an order in writing to such effect shall be issued by that licensing or authorizing agency.

(b) In addition to subsection (a) of this section, the Board or any adversely affected health care facility may maintain a civil action in the Court of Chancery to restrain or prohibit any person from undertaking an activity subject to review as described in § 9304 of this title without first being issued a Certificate of Public Review.

(c) A person who willfully undertakes an activity subject to review as described in § 9304 of this title and who has not received a Certificate of Public Review for that activity shall be fined not less than \$500 nor more than \$2,500 for each offense and each day of a continuing violation after notice of violation shall be considered a separate offense. The Superior Court shall have jurisdiction over

criminal violations under this subsection. (61 Del. Laws, c. 393, § 1; 66 Del. Laws, c. 90, § 1; 69 Del. Laws, c. 251, § 1; 72 Del. Laws, c. 64, § 1.)

**§ 9309. Surrender, revocation and transfer of Certificate of Public Review >Repeal effective June 30, 2009, pursuant to § 9311 of this title. |.**

(a) A Certificate of Public Review may be surrendered by the holder upon written notification to the Board and such surrender shall become effective immediately upon receipt of the Board.

(b) A Certificate of Public Review may be revoked by the Board in the case of misrepresentation in the Certificate of Public Review application, failure to comply with conditions established by the Board pursuant to § 9303(d)(2) of this title, failure to undertake the activity for which the Certificate of Public Review was granted in a timely manner or loss of license or other authority to operate. Prior to revoking a Certificate of Public Review, the Board shall provide written notice to the holder of the certificate stating its intent to revoke the certificate and providing the holder at least 30 days to voluntarily surrender the certificate or to show good cause why the certificate should not be revoked. No Certificate of Public Review shall be revoked by the Board without first providing the holder of the certificate an opportunity for a hearing. The Board's decision to revoke a Certificate of Public Review may be appealed pursuant to § 9305(8) of this title.

(c) No Certificate of Public Review issued under this chapter, and no rights or privileges arising therefrom, shall be subject to transfer or assignment, directly or indirectly, except upon order or decision of the Board specifically approving the same, issued pursuant to application supported by a finding from the evidence that the public to be served will not be adversely affected thereby. (61 Del. Laws, c. 393, § 1; 66 Del. Laws, c. 90, § 1; 69 Del. Laws, c. 251, § 1; 72 Del. Laws, c. 64, §§ 1, 12.)

**§ 9310. Immunity >Repeal effective June 30, 2009, pursuant to § 9311 of this title. |.**

No member, officer or employee of the Board, the Bureau or health care facility shall be subject to, and such persons shall be immune from, any claim, suit, liability, damages or any other recourse, civil or criminal, arising from any act or proceeding, decision or determination undertaken or performed, or recommendations made while discharging any duty or authority under this chapter, so long as such

person acted in good faith, without malice, and within the scope of such person's duty or authority under this chapter or any other provisions of the Delaware law, federal law or regulations or duly adopted rules and regulations providing for the administration of this chapter, good faith being presumed until proven otherwise, with malice to be shown by the complainant. (61 Del. Laws, c. 393, § 1; 66 Del. Laws, c. 90, § 1; 69 Del. Laws, c. 251, § 1; 70 Del. Laws, c. 186, § 1.)

**§ 9311. Sunset provision ›Repeal effective June 30, 2009, pursuant to this section. |.**

The Board and all provisions of this chapter shall sunset June 30, 2009. (69 Del. Laws, c. 251, § 1; 70 Del. Laws, c. 446, § 6; 72 Del. Laws, c. 64, § 13; 73 Del. Laws, c. 256, § 1; 75 Del. Laws, c. 192, § 9.)

**§ 9312. Charity care ›Repeal effective June 30, 2009, pursuant to § 9311 of this title. |.**

Any person subject to a CPR review pursuant to this chapter shall perform and accept within this State charity care to the extent required by the Board to those individuals who meet the criteria for rendering charity care established by the Board. (75 Del. Laws, c. 192, § 10.)

*(Attachment I)*



**NOTICE OF INTENT  
(CERTIFICATE OF PUBLIC REVIEW)**

1. Name of Applicant:
2. Address:
3. Telephone:
4. Person to Contact:
5. Type of Ownership:  

☐ Public

☐ Proprietary (Individual)

☐ Private Non-profit

☐ Proprietary (Partnership)

☐ Proprietary (Corporation)
6. Anticipated Date of Filing Application:
7. Estimated Capital Expenditure:        \$
8. Please attach a brief Narrative (one page or less if possible) which describes the project.
9. STATEMENT OF CERTIFICATION:  
  
The statements and information provided herein are true and correct to the best of my knowledge and belief.

\_\_\_\_\_  
Signature of Chief Executive Officer

Date

## **CERTIFICATE OF PUBLIC REVIEW APPLICATION**

The purpose of this application is to obtain the information necessary to make a determination of need pursuant to Title XVI, Chapter 93 of the Delaware Code. It is in the Applicant's interest to expand upon the issues raised to the point necessary to demonstrate that need for the proposed project does exist.

The application contains three (3) sections:

- A. Background Information
- B. Review Considerations
- C. Schedules

### STATEMENT OF CERTIFICATION:

The statements and information provided in this Certificate of Public Review Application are true and correct to the best of my knowledge and belief.

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Signature of Chief Executive Officer

Date

A. BACKGROUND INFORMATION

1. Name of Applicant:
2. Address:
3. Telephone:
4. Person to Contact:
5. Please attach a list of all officers and members of the governing board. If applicable, please attach a list of all individuals, corporations or other organizations having at least a 10% equity interest in the applicant organization.
6. If the acquisition of real estate is involved, attach a copy of sales or lease agreement. If zoning changes are necessary, please provide documentation that the Applicant is in the process of obtaining all necessary waivers and clearances from zoning authorities.
7. Is the Applicant certified by Medicare? ☐ Yes ☐ No  
If not, do you intend to seek? ☐ Yes ☐ No
8. Is the Applicant certified by Medicaid? ☐ Yes ☐ No  
If not, do you intend to seek? ☐ Yes ☐ No
9. Does the Applicant have a contract with Blue Cross and Blue Shield of Delaware?  
☐ Yes ☐ No  
If not, do you intend to seek? ☐ Yes ☐ No
10. Is the Applicant accredited by the Joint Commission on the Accreditation of Hospitals or some other professional, consumer or other non-governmental organization? ☐ Yes ☐ No  
  
If "Yes", please indicate name of accrediting organization:
11. Has the Applicant retained (or intend to retain) a firm that provides overall management services on a contract basis? ☐ Yes ☐ No

If “Yes”, please show the name of the firm, the services it provides, the terms of the contract, and the rationale for this relationship: \_\_\_\_\_

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12. Please attach a Schedule of Implementation. (Use separate sheet.)
13. Please include a copy of most recent annual audited financial statements.

B. REVIEW CONSIDERATIONS

1. Please provide a narrative describing the project in as much detail as the Applicant feels appropriate to a proper understanding of the need for the project. The narrative should be written with an understanding that the application will be evaluated on the basis of the following statutory criteria:
  - The relationship of the proposal to the Health Resources Management Plan.
  - The need of the population for the proposed project.
  - The availability of less costly and/or more effective alternatives to the proposal including alternatives involving the use of resources located outside the State of Delaware.
  - The relationship of the proposal to the existing health care delivery system.
  - The immediate and long-term viability of the proposal in terms of the Applicant's access to financial, management and other necessary resources.
  - The anticipated effect of the proposal on the costs of and charges for health care.
  - The anticipated effect of the proposal on the quality of health care.
2. Does the Applicant have a long-range plan? ( ) Yes ( ) No  
If "Yes", include copy with this application if not previously submitted.
3. Population's need for proposed services. (Discuss in the narrative.)
  - (3.1) Please define the Applicant's service area and its population. (Include relevant patient origin data.)
  - (3.2) Summarize relevant demographic data that contributes to a clearer understanding of the need for the service being proposed.

- (3.3) Will this project enhance the health status of the user population?  
( ) Yes ( ) No

If “Yes”, please elaborate in the narrative. If possible, please cross-reference the demographic data outlined above and reference any quantitative/qualitative information, including; improvements in accessibility, availability, new technology, advances in medical science, mortality data, morbidity data, and utilization rates of similar services elsewhere.

- (3.4) Will this project enhance the efficiency with which the health care needs of the user population are being met? ( ) Yes ( ) No

If “Yes”, please discuss in the narrative. If possible, cross-reference the financial data in the Schedules and make reference to any quantitative/qualitative information, including; improvements in operating costs, the services as an alternative to more costly alternative, improvements in the financial stability of the Applicant, more cost-effective delivery modes, etc.

- (3.5) Will the project being proposed enhance the quality and/or continuity of care being provided by the Applicant? ( ) Yes ( ) No

If “Yes”, please describe in the narrative the nature of these improvements. Please quantify to the extent possible.

4. Are there alternative providers of this service readily accessible to the user population? ( ) Yes ( ) No

If “No”, please discuss in the narrative the rationale for this conclusion, considering such factors as availability and accessibility. Include reference to specific providers that now offer the proposed service and include evidence that the impact of this project has been discussed with this provider(s).

If “Yes”, please discuss in the narrative why this project does not duplicate these resources unnecessarily.

5. Financial Feasibility and Implications:

- (5.1) Has a financial feasibility study been performed? ( ) Yes ( ) No

If “Yes” please attach a copy.

(5.2) Financial Impact (first full year of operations):

- a) Estimated effect on annual operating expenses      \$ \_\_\_\_\_
- b) Estimated effect on annual revenues                      \$ \_\_\_\_\_
- c) Estimated effect on individual charges                      \$ \_\_\_\_\_

Please discuss derivation of the above figures in the narrative.

6. Availability of necessary resources:

(6.1) Does the applicant have assurances that the needed personnel can be retained?                      (   ) Yes              (   ) No

If “Yes”, please discuss nature of these assurances in the narrative.

(6.2) Does the Applicant have assurances that the necessary capital will be available?                      (   ) Yes              (   ) No

If “Yes”, please discuss nature of assurances in the narrative.

If “No”, please discuss how you intend to obtain the necessary capital.

(6.3) Has the Applicant evaluated alternative uses to which these monies, personnel and other resources could be used and has the Applicant concluded that the proposal in this Application is a cost-effective expenditure designed to meet the health care needs of the population being served?                      (   ) Yes

If “Yes”, please discuss the evaluative process in the narrative.

7. Has the Applicant established referral arrangements with other providers to ensure appropriate continuity of care, accessibility and related quality enhancing considerations?                      (   ) Yes              (   ) No

If “Yes”, please discuss in the narrative the nature of these arrangements, including the responsibilities of each provider and the means used to ensure continuity of care.

8. Construction and Project Cost:

- (8.1) Has the Applicant evaluated alternative ways to obtain the facility change that is needed? ☐ Yes ☐ No

If "Yes", please discuss in the narrative the evaluative process, the alternatives that were considered and the rationale for selecting this alternative.

- (8.2) Does the Applicant intend to employ energy conservation principles in the design or other aspects of construction? ☐ Yes ☐ No

If "Yes", please detail in the narrative the nature of the energy conservation program.

If "No", please outline reasons for exclusion.

- (8.3) Will the proposed construction eliminate any architectural barriers to the handicapped? ☐ Yes ☐ No

If "Yes", please discuss briefly in the narrative, the types of barriers to be eliminated.

9. Please attach a copy of any study or analysis which has been conducted and contributed to a decision to file this application.



## C-Schedules

The schedules in Section-C should be completed where germane to the project being proposed or to the type of provider making application. The level of detail anticipated will vary from one type of provider to another.

### Schedule 1 - PROJECT ELEMENTS

Use additional copies as needed.

#### A. Program Changes - (Please check where appropriate.)

Health Services Affected	New Service	Service Expansion	Merger	Closing Service

#### B. Facility Changes

Equipment and Functional Areas Affected	New Construction	Renovation	Lease	Purchase

### Schedule 2 - OBJECTIVES OF THIS PROPOSAL

List the objectives of the program and facility changes proposed in this application in order of relative priority to the Applicant.

1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	

Schedule 3 - PROGRAM CHANGE

Health Services Affected <sup>1</sup>	Present Capacity <sup>2</sup>	Present Volume <sup>2</sup>	Future Capacity <sup>2</sup>	Future Volume <sup>3</sup> (if CN approved)	Future Volume <sup>3</sup> (if CN denied)

<sup>1</sup> For example: M/S bed, home health visits, laboratory tests.

<sup>2</sup> Expressed as patient days, tests, visits, etc. for most recent fiscal year.

<sup>3</sup> For the first full year of operation following project completion.

Schedule 4 - STATEMENT OF REVENUES AND EXPENSES

Please provide the following information for each of the past two fiscal years and for the first two years of full operation of the proposed service. Please attach assumptions on which projections are based. Base projections in current dollars (no provision for inflation).

<b>REVENUE</b>	19	19	19	19
Gross Patient Revenue				
Less: Contractual Adjustments				
Indigent Care				
Uncollectibles & Other				
Net Patient Revenue				
Other Operating Revenue				
<b>Net Operating Revenue</b>				
<b>OPERATING EXPENSES</b>				
Salaries and Wages				
Fringe Benefits				
Purchased Services				
a) Direct Patient Care				
b) All Others				
Energy Costs				
Supplies				
Depreciation				
Interest				
Other (Specify)				
<b>TOTAL OPERATING EXPENSE</b>				
<b>Gain (loss) from operation</b>				
<b>Non-Operating Revenue</b>				
Unrestricted Gifts				
Unrestricted Income from Investments				
Sale of Securities or Other Unrestricted Assets				
<b>TOTAL NON-OPERATING REVENUE</b>				
<b>NET GAIN (LOSS)</b>				

Schedule 5 - SOURCE OF REVENUE

(Most recent audited fiscal year.)

<b>A. TOTAL OPERATIONS</b>			
Source		Gross Revenue (Charges)	Net Revenue
Blue Cross & Blue Shield of Delaware			
Medicare			
Medicaid			
Commercial Insurance			
Self Pay			
Other			
TOTAL			
<b>B. IN-PATIENT ROUTINE (IF AFFECTED BY PROJECT AND AVAILABLE)</b>			
Source	Patient Days	Gross Revenue (Charges)	Net Revenue
Blue Cross & Blue Shield of Delaware			
Medicare			
Medicaid			
Commercial Insurance			
Self Pay			
Other			
TOTAL			
<b>C. IN-PATIENT ANCILLARY (IF AFFECTED BY PROJECT AND AVAILABLE)</b>			
Source	Tests/Procedures	Gross Revenue (Charges)	Net Revenue
Blue Cross & Blue Shield of Delaware			
Medicare			
Medicaid			
Commercial Insurance			
Self Pay			
Other			
TOTAL			

Schedule 5 - SOURCE OF REVENUE CONT'D

<b>D. OUT-PATIENT ANCILLARY (IF AFFECTED BY PROJECT AND AVAILABLE)</b>			
Source	Tests/Procedures	Gross Revenue (Charges)	Net Revenue
Blue Cross & Blue Shield of Delaware			
Medicare			
Medicaid			
Commercial Insurance			
Self Pay			
Other			
TOTAL			
<b>E. OTHER OUT-PATIENT SERVICES (IF AFFECTED BY PROJECT AND AVAILABLE)</b>			
Source	Visits	Gross Revenue (Charges)	Net Revenue
Blue Cross & Blue Shield of Delaware			
Medicare			
Medicaid			
Commercial Insurance			
Self Pay			
Other			
TOTAL			
<b>F. EMERGENCY ROOM (IF AFFECTED BY PROJECT AND AVAILABLE)</b>			
Source	Visits	Gross Revenue (Charges)	Net Revenue
Blue Cross & Blue Shield of Delaware			
Medicare			
Medicaid			
Commercial Insurance			
Self Pay			
Other			
TOTAL			

Schedule 5 - SOURCE OF REVENUE CONT'D

<b>G. HOME HEALTH CARE (IF AFFECTED BY PROJECT AND AVAILABLE)</b>			
Source	Visits	Gross Revenue (Charges)	Net Revenue
Blue Cross & Blue Shield of Delaware			
Medicare			
Medicaid			
Commercial Insurance			
Self Pay			
Other			
TOTAL			

# SCHEDULE 6 - BED USE DATA

Please provide data below for three (3) most recent fiscal years, for services affected by the project.

Service	Year	Number of Beds	Percent Occupancy Rate	Number of Discharges	Number of Patient Days	Average Length of Stay
M/S						
OB						
PED						
ICU						
CCU						
PSYCH						
SNF/ICF						



SCHEDULE 6 - BED USE DATA (CONT'D)

Service	Year	Number of Beds	Percent Occupancy Rate	Number of Discharges	Number of Patient Days	Average Length of Stay
OTHER						
OTHER						
OTHER						
TOTAL						

## SCHEDULE 7 - CHANGES IN STAFFING

For those services affected by this Project in which the staffing patterns are expected to change.

[illegible]

\* For first year of operation following completion of the Project and stated in current dollars. Do not include fringe benefits.

**SCHEDULE 8 - LOCATION OF BEDS BY FLOOR/BUILDING**

[illegible]

\* Please attach block diagrams identifying each building (or wing); label each (A, B, C, etc.). In Column 2 (Location) indicate where the beds are housed and the floor on which they are located (e.g., B-3). If a specific service (e.g., M/S beds) is located, for example, in four different locations there should be four separate entries.

## SCHEDULE 9 - FACILITY CHANGE

Functional Areas Affected*	Present Square Feet	SQ Feet to be Constructed	SQ Feet to be Renovated	SQ Feet On Completion
Total				

\* Example of functional areas are: Nursing Units, Laboratory, Doctor's Office, Lobby, Medical Records, Storage, etc.

## SCHEDULE 10 - ESTIMATED CAPITAL EXPENDITURE

ITEM	DESCRIPTION	MINIMUM	MAXIMUM
1.1	Land Acquisition Costs		
2.2	Building Acquisition Costs		
2.3	Construction Contract (include bonding costs)		
	(a) Site Development		
	(b) Building Cost		
	(c) Sub-Total		
2.4	Fixed Equipment (not in contract)		
2.5	Movable Equipment		
2.6	Site Survey & Soil Investigations		
2.7	Architect/Engineering Fees		
	(a) Architect		
	(b) Engineering		
	(c) Construction Management		
	(d) On-Site Representative		
	(e) Planning		
	(f) Sub-Total		
2.8	Financing and Underwriting		
2.9	Construction Loan Interest (Interest Rate =     %)		
2.10	Legal Fees (and other)		
2.11	Estimated Range of Capital Expenditure		

This Schedule should be filled out using cost estimates as of the date of Application, and should not include any provision for inflation.

The range should not exceed 20% (minimum - maximum).

There should be no allowances for contingencies.

## SCHEDULE 11 - SOURCES OF FINANCING

1. **Applicant's Investment:**
  - (a) Cash on hand \$ \_\_\_\_\_
  - (b) Trust or other funds \$ \_\_\_\_\_
  - (c) Fund raising \$ \_\_\_\_\_
  - (d) Other \$ \_\_\_\_\_
2. **Grants/Gifts**  
(e.g., large bequeath, foundation or government grant) \$ \_\_\_\_\_
3. **Borrowing:**
  - (a) \_\_\_\_\_  
(Type)  
  
Principal: \$ \_\_\_\_\_  
Interest Rate: \_\_\_\_\_  
Terms: (in years) \_\_\_\_\_
  - (b) \_\_\_\_\_  
(Type)  
  
Principal: \$ \_\_\_\_\_  
Interest Rate: \_\_\_\_\_  
Terms: (in years) \_\_\_\_\_
  - (c) \_\_\_\_\_  
(Type)  
  
Principal: \$ \_\_\_\_\_  
Interest Rate: \_\_\_\_\_  
Terms: (in years) \_\_\_\_\_
4. **Maximum project cost** (Total of 1, 2 &3) \$ \_\_\_\_\_
5. **Annual Debt Service** (Interest and Principal) \$ \_\_\_\_\_

If the requisite debt service is other than the traditional level debt payments covering interest and principal, please attach a brief description of these terms.

If the proposed financing is to be used for start-up or other operating costs, please attach a brief narrative describing the extent of and rationale for this use.

## SCHEDULE 12 - INDICATORS OF FINANCIAL FEASIBILITY

Please compute the following based upon most recent audited statement (please indicate year).

1. CURRENT RATIO =  $\frac{\text{Current Assets}}{\text{Current Liabilities}}$  = \_\_\_\_\_

2. DEBT OF WORTH =  $\frac{\text{Long Term Debt}}{\text{Total Assets}}$  = \_\_\_\_\_

3. EQUITY RATIO =  $\frac{\text{Total Net Worth}}{\text{Total Assets}}$  = \_\_\_\_\_

4. CASH FLOW =  $\frac{\text{Net Patient Revenue}}{\text{Net Accounts Receivable}}$  = \_\_\_\_\_

5. BAD DEBT RATIO =  $\frac{\text{Bad Debts}}{\text{Gross Patient Revenue}}$  = \_\_\_\_\_

### SCHEDULE 13 -DEBT SERVICE COVERAGE

		Most recent 2 years		Projected*	
		19	19	19	19
(1)	Revenue minus expenses:				
(2)	Interest:				
(3)	Depreciation (annual):				
(4)	Cash available for debt service (total of 1, 2 & 3):				
(5)	Total Debt Service				
(6)	Debt Service Coverage Ratio (4 divided by 5):				

\* First two years impacted by debt service associated with this project.



**SCHEDULE 14 - PRESENT LONG TERM DEBT**

[illegible]

\* If Repayment Amount is other than periodic interim payments of equal amount, outline the terms in attached narrative.

If proposed borrowing is to include refinancing of all or part of the above, so indicate in space below.

### SCHEDULE 15 - DETAILED EQUIPMENT LISTING

Please list each piece or related series of capital equipment in the table below. If the cost of individual or related series of equipment exceeds \$100,000, or constitutes a “new health service”, detail the use to which the equipment will be put in the attached narrative and attach the purchase/lease agreement, if available. If the equipment is a replacement and exceeds \$100,000, please explain why existing equipment is no longer adequate in attached narrative.

Item	Nature of the Equipment	Estimated Useful Life	Quantity	Price Each	Total Price	Total Lease Cost per Year
1.						
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						
11.						
12.						
13.						
14.						
15.						

\* For example: for new beds -- 40 @ \$4,000.

**DOCUMENTATION FOR APPROVAL OF  
“EMERGENCY SITUATION”**

1. Name of Applicant:
2. Date of initial contact with the Bureau of Health Planning and Resources Management:
3. Please attach a brief statement describing the nature of the “Emergency Situation.”
4. Please attach a brief statement explaining how the “Emergency Situation” is proposed to be remedied, including the estimated capital cost involved.
5. Was an architect, engineer, or other consultant retained to assist the Applicant?  
( ) Yes      ( ) No  
  
If “yes”, please include copies of reports, recommendations, etc., issued by these consultants.
6. What is the expected date of completion of any necessary repairs?
7. Will the Applicant be filing a subsequent application to undertake more extensive capital expenditures to resolve this situation?  
( ) Yes      ( ) No
8. STATEMENT OF AFFIRMATION:

The Signatory hereby affirms that the conditions affected by this Application represent an “Emergency Situation” which threatens the safety of patients and/or the ability of the health facility to remain in operation.

\_\_\_\_\_  
Signature of Chief Executive Officer

\_\_\_\_\_  
Date